

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATANAEL RIVERA,

Plaintiff,

v.

MICHAEL SCHULTZ, SAMUEL MENNING,
LAWRENCE PETERSON and GEORGE JIMENEZ,

Defendants.

ORDER

12-cv-240-bbc

Pro se plaintiff Natanael Rivera is proceeding on a claim that defendants Michael Schultz, Samuel Menning, Lawrence Peterson and George Jimenez subjected him to a strip search, in violation of the Eighth Amendment. Trial is scheduled for November 14, 2013. On November 8, 2013, plaintiff a motion to compel discovery. Dkt. #88. Because plaintiff alleged that defendants simply ignored his request for production of documents, I directed defendants to respond to the request or show cause why they should not be required to do so.

In their response, defendants say that they did not comply with plaintiff's discovery request because it was untimely. In particular, they say that they did not receive the request until October 7, 2013, only a few days before the October 11, 2013 discovery cutoff date. Because Fed. R. Civ. P. 34 gives parties 30 days to respond to a request, defendants argue that a request that came less than 30 days before the deadline should be considered

untimely.

Defendants' position is a reasonable one. Because the discovery cutoff is only a few weeks before trial (and about the same time as the deadline for filing various trial submissions), it would not make any sense to allow parties to wait until just before the discovery deadline to submit new discovery requests. Although the preliminary pretrial conference order does not define the term "discovery cutoff," plaintiff could have sought clarification from the court if he was unsure. Further, he does not provide any justification for waiting as long he did to submit the requests, in which he asks for 20 different sets of documents.

In any event, I agree with defendants that each of the requests either relates to information that has no apparent relevance to this case or has been resolved previously in the context of plaintiff's other motions to compel. Accordingly, I am denying plaintiff's motion.

ORDER

IT IS ORDERED that plaintiff Natanael Rivera's motion to compel, dkt, #88, is DENIED.

Entered this 13th day of November, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge